

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JACK WILKINS and RAFAEL GOLDYN)	
)	
)	
Plaintiffs,)	Case No. 12 CV 8906
)	
v.)	Judge Kennelly
)	
OFFICER GOTCH #365, individually, and FOREST PRESERVE DISTRICT OF COOK COUNTY)	Magistrate Judge Soat Brown
)	
)	Jury Demand
)	
Defendants.)	

FIRST AMENDED COMPLAINT AT LAW

NOW COME the Plaintiffs, Jack Wilkins and Rafael Goldyn, by and through one of their attorneys, David S. Lipschultz of Goldberg, Weisman & Cairo, and complaining against the Defendants, Officer Gotch, individually, and the Forest Preserve District of Cook County, states as follows:

JURISDICTION AND PARTIES

1. This action is brought pursuant to the laws of the United States Constitution, specifically, 42 U.S.C. §1983 and §1988, and the laws of the State of Illinois, to redress deprivations of the civil rights of the Plaintiffs, Jack Wilkins and Rafael Goldyn, accomplished by acts and/or omissions of the Defendant, Officer Gotch, and committed under color of law.

2. Jurisdiction is based on Title 28 U.S.C. §1343 and §1331 and supplemental jurisdiction of the State of Illinois.

3. At all relevant times, Plaintiff Jack Wilkins was and remains a United States citizen and a resident of the State of Illinois.

4. At all relevant times, Plaintiff Rafael Goldyn was and remains a United States citizen and a resident of the State of Illinois.

5. At all relevant times, the Defendant, Officer Gotch, was a duly appointed police officer with the Forest Preserve District of the County of Cook acting within the scope of his employment and under color of law.

6. At all times relevant herein, the Defendant, Forest Preserve District of the County of Cook, was and remains a municipal corporation duly incorporated under the laws of the State of Illinois, and is the employer and principal of Officer Gotch.

COUNT I
42 U.S.C. §1983 FALSE ARREST

7. On or about May 13, 2012, Plaintiff Jack Wilkins (“Plaintiff Wilkins”) was attending a picnic at the Cook County Forest Preserve at Schiller Woods, located at Irving Park and River Road in Chicago, Illinois.

8. One of Plaintiff Wilkins’ friends, Plaintiff Rafael Goldyn (“Plaintiff Goldyn”), was hosting the picnic. Plaintiff Goldyn had obtained a permit to hold the picnic.

9. During the picnic Officer Gotch appeared on scene.

10. Officer Gotch ordered the Plaintiff Goldyn to lower the volume of the music that was playing, to move certain vehicles, and to pick up some bottles.

11. Plaintiff Goldyn complied with Officer Gotch’s order.

12. Despite Plaintiff Goldyn’s compliance with Officer Gotch’s orders, Officer Gotch ordered that the picnic be shut down and that everyone leave.

13. Other police officers arrived on the scene.

14. Officer Gotch caused Plaintiffs Wilkins and Goldyn to be arrested.

15. Plaintiffs Wilkins and Goldyn were not committing any crimes or breaking any laws.

16. There was no probable cause for Officer Gotch to cause the arrest of Plaintiffs Wilkins and Goldyn.

17. The actions of the Officer Gotch were intentional, willful and with executed with malice.

18. Said actions of Officer Gotch violated Plaintiff Wilkins' and Plaintiff Goldyn's Fourth and Fourteenth Amendment rights of the United States Constitution and were in violation of said rights protected by 42 U.S.C. §1983.

19. As a direct and proximate consequence of said conduct of Officer Gotch, Plaintiff Wilkins and Plaintiff Goldyn suffered violations of their constitutional rights, loss of liberty, emotional anxiety, fear, humiliation, monetary loss, and suffering.

WHEREFORE the Plaintiffs, JACK WILKINS and RAFAEL GOLDYN, pray for judgment in their favor and against the Defendant, OFFICER GOTCH, for reasonable compensatory damages and punitive damages, plus attorney's fees and costs.

COUNT II
MALICIOUS PROSECUTION (ILLINOIS LAW)

20. The Plaintiffs hereby re-alleges paragraphs 1-19 as though fully set forth herein.

21. Officer Gotch continued with the criminal charges against the Plaintiffs knowing said charges were false.

22. The charges against the Plaintiffs proceeded to trial.

23. On or about August 20, 2012, the Plaintiffs were found not guilty of all charges.

24. As a result of the actions of Officer Gotch, the Plaintiffs suffered loss of liberty, emotional distress, anxiety, monetary damages, and fear.

WHEREFORE the Plaintiffs, JACK WILKINS and RAFAEL GOLDYN, pray for judgment in their favor and against the Defendant, OFFICER GOTCH, and for reasonable compensatory damages, plus costs.

COUNT III
INDEMNIFICATION

25. Plaintiffs hereby re-allege and incorporate paragraphs 1-24 as though fully set forth herein.

26. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

27. Defendant Officer Gotch is or was an employee of the County of Cook who acted within his scope of employment in committing the misconduct described herein.

WHEREFORE should the Defendant, OFFICER GOTCH, be found liable for any of the acts alleged above, the Defendant, COUNTY OF COOK, would be liable to pay the Plaintiffs, JACK WILKINS and RAFAEL GOLDYN, any judgment obtained against Officer Gotch.

JURY DEMAND

The Plaintiffs, JACK WILKINS and RAFAEL GOLDYN, request trial by jury.

Respectfully submitted,

JACK WILKINS and RAFAEL GOLDYN

/s/ David S. Lipschultz

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